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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/756,832	01/12/2004	Hayden Bostock	5163BD-1-1	2377
22442	7590	01/18/2006	EXAMINER	
SHERIDAN ROSS PC 1560 BROADWAY SUITE 1200 DENVER, CO 80202			NGUYEN, SON T	
			ART UNIT	PAPER NUMBER
			3643	

DATE MAILED: 01/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/756,832

Applicant(s)

BOSTOCK, HAYDEN

Examiner

Son T. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4,6 and 8-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 1/12/04 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 10/048078.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1-4,6,8** are rejected under 35 U.S.C. 102(b) as being anticipated by Ivey (908265).

For claim 1, Ivey teaches a safety stirrup comprising: a generally U-shaped mounting member (3,5,A), and a foot support member (9,10,B) for receiving a rider's foot, such that when the rider's foot is in the normal use position, the foot support member is supported within the generally U-shaped mounting member by at least one mounting comprising a releaseable connection between the generally U-shaped mounting member and the foot support, wherein vertically upward movement of the rider's foot out of the normal use position causes vertically upward movement of the foot support member such that at least one mounting to release the foot support member sufficiently that the foot support member can move in the same direction as the rider's foot until the foot support member is fully disconnected from the U-shaped mounting member (page 1, lines 85-98).

For claims 2 & 3, Ivey teaches similar to claim 1 as discussed above with further teaching of at least one projection (8,13) located in a recess (6,4) adjacent to the U-

shaped mounting member to allow full disconnection of the mounting member and foot support member.

For claim 4, Ivey teaches wherein the at least one projection is located on the foot support (projection 13 is located on foot support 9,10,B) and are received in one or more recesses in the U-shaped mounting member (recess 4 is located in mounting member 3 to receive projection 13).

For claim 6, Ivey teaches wherein one additional projection (13) is located on one side of the foot support member (9,10), and another additional projection (13) is located on an opposing side of the foot support member (9,10), each additional projection being received in a complementary shaped recess (4,6) in the U-shaped mounting member.

For claim 8, Ivey teaches wherein at least one of the complementary shaped recesses includes an indentation (4,6) in which the additional projection (13,8) resides during normal use, but vertical movement of the rider's foot out of the normal use position causes the additional projection to move out of the indentation, releasing the foot support sufficiently that the additional projection can move along a guide and the foot support member can move in the same direction as the rider's foot prior to the foot support being fully disconnected from the U-shaped mounting member.

3. **Claims 1-4,6,9** are rejected under 35 U.S.C. 102(b) as being anticipated by Evans (2641883).

For claim 1, Evans teaches a safety stirrup comprising: a generally U-shaped mounting member (21,3,4), and a foot support member (1) for receiving a rider's foot, such that when the rider's foot is in the normal use position, the foot support member is

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supported within the generally U-shaped mounting member by at least one mounting comprising a releaseable connection (see fig. 5) between the generally U-shaped mounting member and the foot support, wherein vertically upward movement of the rider's foot out of the normal use position causes vertically upward movement of the foot support member such that at least one mounting to release the foot support member sufficiently that the foot support member can move in the same direction as the rider's foot until the foot support member is fully disconnected from the U-shaped mounting member (col. 2, lines 35-38).

For claims 2 & 3, Evans teaches similar to claim 1 as discussed above with further teaching of at least one projection (7,9) located in a recess (22) adjacent to the U-shaped mounting member to allow full disconnection of the mounting member and foot support member.

For claim 4, Evans teaches wherein the at least one projection (7,9) is located on the foot support (1) and are received in one or more recesses (22) in the U-shaped mounting member (21,3,4).

For claim 6, Evans teaches wherein one additional projection (7,9) is located on one side of the foot support member (1), and another additional projection (8,9, the left side as shown in fig. 1) is located on an opposing side of the foot support member (9,10), each additional projection being received in a complementary shaped recess (22, on both left and right sides) in the U-shaped mounting member.

For claim 9, Evans teaches further includes a biasing means (14) to resist movement of the at least one projection in a respective recess (15).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claim 10** is rejected under 35 U.S.C. 103(a) as being unpatentable over Ivey (as above) in view of Martin (5979149).

Ivey lacks non-metallic material. Martin teaches a safety stirrup comprising of a non-metallic material. It would have been obvious to one having ordinary skill in the art at the time the invention was made to manufacture the safety stirrup of Ivey out of a non-metallic material as taught by Martin, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious choice.

Response to Arguments

6. Applicant's arguments with respect to claim 9 have been considered but are moot in view of the new ground(s) of rejection.

7. Applicant's arguments filed 1/3/06 have been fully considered but they are not persuasive.

Applicant argued that Applicant submits, however, that this does not accurately reflect the wording at lines 85-90 of Ivey. Specifically, Ivey teaches that "...should the rider fall or be thrown from his mount the fore part of his foot will contact with the bail A and cause the thread member 9 to revolve upon the pin

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13...". Thus, there cannot be any vertically upward movement of the support member because the lip 4 on arm 3 hooks around the bottom of pin 13, thus preventing any vertically upward movement of arm 3 relative to side portion 10.

As shown in fig. 3 of Ivey, the support member B does move vertically upward because as the top portion (in the area of ref. 6) rotates downward to fall out, the bottom portion of member B does move vertically upward in opposite direction as the top portion as can be seen in transition from fig. 2 to fig. 3.

Applicant argued that while it may be obvious to manufacture the safety stirrup of Ivey out of non-metallic material there is no reason for the person of ordinary skill to manufacture the present invention out of non-metallic material.

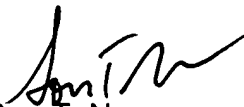
Manufacturing the stirrup of Ivey out of a non-metallic material is of choice, so there is no reason why one wouldn't want to make it out of non-metallic material since material is of choice for its suitability for the intended use. In re Leshin, 125 USPQ 416. Intended use could be to make the stirrup lighter than as opposed to using metal.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son T. Nguyen whose telephone number is 571-272-6889. The examiner can normally be reached on Mon-Thu from 10:00am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Son T. Nguyen
Primary Examiner
Art Unit 3643

stn